

FIRST REGULAR SESSION

SENATE BILL NO. 233

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Read 1st time January 13, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1217S.011

AN ACT

To repeal section 490.065, RSMo, and to enact in lieu thereof one new section relating to expert witnesses.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 490.065, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 490.065, to read as follows:

490.065. 1. [In any civil action, if scientific, technical or other specialized
2 knowledge will assist the trier of fact to understand the evidence or to determine
3 a fact in issue, a witness qualified as an expert by knowledge, skill, experience,
4 training, or education may testify thereto in the form of an opinion or otherwise.

5 2. Testimony by such an expert witness in the form of an opinion or
6 inference otherwise admissible is not objectionable because it embraces an
7 ultimate issue to be decided by the trier of fact.

8 3. The facts or data in a particular case upon which an expert bases an
9 opinion or inference may be those perceived by or made known to him at or before
10 the hearing and must be of a type reasonably relied upon by experts in the field
11 in forming opinions or inferences upon the subject and must be otherwise
12 reasonably reliable.

13 4. If a reasonable foundation is laid, an expert may testify in terms of
14 opinion or inference and give the reasons therefor without the use of hypothetical
15 questions, unless the court believes the use of a hypothetical question will make
16 the expert's opinion more understandable or of greater assistance to the jury due
17 to the particular facts of the case.] **A witness who is qualified as an expert**
18 **by knowledge, skill, experience, training, or education may testify in**
19 **the form of an opinion or otherwise if:**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 (1) The expert's scientific, technical, or other specialized
21 knowledge will help the trier of fact to understand the evidence or to
22 determine a fact in issue;

23 (2) The testimony is based on sufficient facts or data;

24 (3) The testimony is the product of reliable principles and
25 methods; and

26 (4) The expert has reliably applied the principles and methods
27 to the facts of the case.

28 2. An expert may base an opinion on facts or data in the case
29 that the expert has been made aware of or personally observed. If
30 experts in the particular field would reasonably rely on those kinds of
31 facts or data in forming an opinion on the subject, such facts or data
32 need not be admissible for the opinion to be admitted. But if the facts
33 or data would otherwise be inadmissible, the proponent of the opinion
34 may disclose them to the jury only if their probative value in helping
35 the jury evaluate the opinion substantially outweighs their prejudicial
36 effect.

37 3. (1) An opinion is not objectionable because it embraces an
38 ultimate issue.

39 (2) In a criminal case, an expert witness shall not state an
40 opinion about whether the defendant did or did not have a mental state
41 or condition that constitutes an element of the crime charged or of a
42 defense. Those matters are for the trier of fact alone.

43 4. Unless the court orders otherwise, an expert may state an
44 opinion and give the reasons for it without first testifying to the
45 underlying facts or data. But the expert may be required to disclose
46 those facts or data on cross-examination.

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